

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BLACK LOVE RESISTS IN THE RUST, et al.,

Plaintiffs,

v.

Case No.: 1:18-cv-719

CITY OF BUFFALO, N.Y., et al.

Defendants.

JOINT MOTION
TO MODIFY THE SCHEDULING ORDER

The Parties respectfully move to amend the scheduling order to extend all deadlines by three months. *See* Dkt. 137, 138. The proposed schedule is as follows:

Deadline	Current Date	Modified Date
Completion of fact discovery	September 6, 2022	December 6, 2022
Motions to compel discovery	September 6, 2022	December 6, 2022
Class certification motion	September 6, 2022	December 16, 2022
Service of initial expert reports	November 1, 2022	February 1, 2023
Service of rebuttal expert reports	November 30, 2022	March 3, 2023
Completion of all expert discovery	December 30, 2022	March 30, 2023
Dispositive Motions	January 24, 2023	April 21, 2023

In support of this motion, the Parties state:

1. Under the present schedule, the deadline for completion of fact discovery and any accompanying motions to compel is September 6, 2022. The Court has set additional deadlines, leading to a dispositive motion deadline of January 24, 2023.

2. Defendants continue to produce ESI, but have not yet completed their production. For example, Defendants recently produced more than 4,300 documents responsive to Plaintiffs requests consisting of additional complaint documentation as well as documentation related to the Erie County Crime Analysis Center's operations. On July 22 Defendants made a substantial production of documents related to Internal Affairs investigations, and they have promised an additional tranche of production on or after July 29. Plaintiffs have not yet completed their review of the recently produced material and cannot move forward with additional depositions until document production is complete and they can review the documents produced.

3. The parties continue to proceed with depositions and Plaintiffs have completed the depositions of Danielle Morgera, Kevin Helfer, and Thomas Whelan, with the deposition of Patrick Roberts to continue on August 11.

4. Defendants have served extensive discovery demands on Plaintiffs. Plaintiffs responses are currently due on August 8.

5. Defendants have noticed ten depositions of the Named Plaintiffs for dates during the last two weeks of August.

6. However, due to pre-planned vacations in August, the parties have negotiated a schedule under which Plaintiffs will respond to written discovery by August 12 and

begin a rolling production, with depositions of the Named Plaintiffs to proceed in mid-September after adequate time for review of Plaintiffs' production. This schedule would require an extension of the fact discovery deadline.

7. Plaintiffs plan to notice at least seven additional depositions, which will complete the initial twenty this Court authorized. Plaintiffs anticipate seeking leave of court to notice a small number of additional depositions, per this Court's order. *See* Tr. 2:14-17 (Dec. 14, 2020).

8. It will be difficult for the Parties to prepare for and defend these depositions in September on top of those already scheduled to take place.

9. The Parties are working together to complete discovery as expeditiously as possible and are making good progress.

10. Accordingly, the Parties respectfully request the modifications set forth above.

Dated: Buffalo, New York
July 28, 2022

/s/ Keisha A. Williams

Keisha Williams
WESTERN NEW YORK LAW CENTER
Cathedral Park Tower
37 Franklin Street, Suite 210
Buffalo, NY 14202
Tel: (716) 828-8415
Fax: (716) 270-4005
jkeleman@wnylc.com
kwilliams@wnylc.com

/s/ Chinyere Ezie

Chinyere Ezie
CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th Floor
New York, NY 10012
212-614-6475
CEzie@ccrjustice.org

/s/ Edward P. Krugman

Claudia Wilner
Edward Krugman
Anjana Malhotra
NATIONAL CENTER FOR LAW
AND ECONOMIC JUSTICE
275 Seventh Avenue, Suite 1506
New York, NY 10001
212-633-6967
wilner@nclej.org
krugman@nclej.org
malhotra@nclej.org

/s/ Jordan Joachim

Jordan Joachim (admitted *pro hac*
vice)
COVINGTON & BURLING LLP
620 Eighth Avenue
New York, NY 10018
212-841-1000
jjoachim@cov.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2022, the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Western District's Local Rules, and/or the Western District's Case Filing Rules & Instructions upon all counsel registered through the ECF System.

/s/ Claudia Wilner